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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TYRONE MASSEY,

Plaintiff,

-against-

CAPTAIN SEWELL, #1716; CAPTAIN
LEE (FEMALE),

Defendants.

18-CV-8432 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS Plaintiff, acting *pro se*, commenced this action on September 14, 2018, alleging denial of timely medical care by Defendants while he was incarcerated in the Manhattan Detention Complex (MDC), Dkt. 2;

WHEREAS on October 2, 2019, Magistrate Judge Barbara Moses recommended dismissal of this action, without prejudice, for failure to prosecute after Plaintiff failed to observe numerous deadlines, failed to appear at two conferences, and failed to communicate about his case for nearly eight months, Dkt. 30;

WHEREAS on October 21, 2019, the Court received a letter from Plaintiff requesting an extension and a copy of all relevant paperwork, explaining that he was once again incarcerated at the MDC and that he, due to serious mental illness and drug use, neglected to follow the developments in this case, Dkt. 31;

WHEREAS Plaintiff indicated that he was then receiving the appropriate medications and that he intended to continue prosecuting this action, Dkt. 31;

WHEREAS on October 24, 2019, the Court declined to adopt the Report and Recommendation recommending dismissal, to allow Plaintiff another chance to comply with the Court's orders and litigate this case on the merits, Dkt. 32;

WHEREAS the Court ordered Plaintiff to file an opposition to Defendants' pending motion to dismiss no later than November 27, 2019, to the extent that he intended to proceed with this litigation, Dkt. 32;

WHEREAS on December 6, 2019, the Court dismissed this case without prejudice because Defendant again failed to respond as ordered, Dkt. 33;

WHEREAS on February 10, 2020, Plaintiff filed a letter indicating that unnamed corrections officials failed to mail his letter responding to Reports and Recommendations in three separate cases in the Southern District of New York, Dkt. 35;

WHEREAS on February 14, 2020, this Court denied Plaintiff's motion to reopen the case without prejudice, finding that the Plaintiff had not shown sufficient basis for the Court to reopen the case under Federal Rule of Civil Procedure 60 and giving Plaintiff until March 13, 2020 to explain why Plaintiff failed to comply with the Court's deadlines, Dkt. 36;

WHEREAS Plaintiff did not file a renewed motion by March 13, 2020, Dkt. 38;

WHEREAS on August 18, 2020, Plaintiff wrote to the Court requesting copies of the filings in his case, Dkt. 40;

WHEREAS on September 29, 2020, Plaintiff filed a motion of reconsideration, alleging the Department of Corrections were indifferent to his medical needs and had retaliated against him for filing complaints, Dkt. 42; and

WHEREAS Plaintiff also commits to diligently prosecuting this case, Dkt. 42;

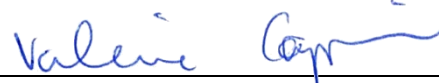
IT IS HEREBY ORDERED that Plaintiff's motion is DENIED. The Court construes Plaintiff's motion as a request for relief from judgment under Federal Rule of Civil Procedure 60. But Plaintiff continues to allege conclusory and threadbare allegations about retaliation. Plaintiff has not explained why he failed to respond to the Court's February 14, 2020 Order by

the March 13, 2020 deadline. The Court reminds Mr. Massey that this case is dismissed and closed and is unlikely to be reopened in the future. If Mr. Massey believes the Department of Corrections has retaliated against him, denied him medical care, or otherwise violated his constitutional rights in instances not included in his September 14, 2018 complaint, Dkt. 2, nothing in this Order precludes Mr. Massey from filing a new civil lawsuit under 42 U.S.C. § 1983 alleging such new and different claims.

The Clerk of Court is respectfully directed to mail Plaintiff, at Tyrone Henry Massey, ID#8952000522, Manhattan Detention Complex, 125 White Street, New York, NY 10013, the following documents: a copy of this Order, docket entries 2, 28, 29, 30, 32, 33, 35, 36, and 38 and the docket sheet. The Clerk of Court is also respectfully requested to note mailing on the docket.

SO ORDERED.

Dated: October 2, 2020
New York, New York



VALERIE CAPRONI
United States District Judge